

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

UNITED STATES OF AMERICA,

Plaintiff,

v.

1.) Tracy Ann NELSON,  
2.) Ricardo GOMEZ,

Defendant(s)

Magistrate Case No. 07 OCT -9 AM 11:32

07 MJ 24 03

COMPLAINT FOR VIOLATION OF:

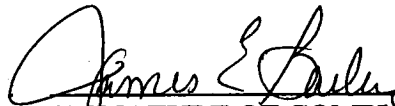
BY \_\_\_\_\_ DEPUTY

Title 8 U.S.C., Sec. 1324 (a)(1)(A)(ii)  
Transportation of Illegal  
Aliens

The undersigned complainant, being duly sworn, states:

On or about **October 6, 2007**, within the Southern District of California, defendants **Tracy Ann NELSON and Ricardo GOMEZ** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that aliens, namely **Efrain MARTINEZ-Casillas and Jesus GAMEZ-Aguado** had come to, entered and remained in the United States in violation of law, did transport and move, said aliens within the United States in furtherance of such violation of law; in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii).

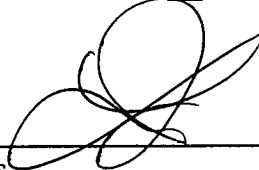
And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.



SIGNATURE OF COMPLAINANT

James E. Bailey

Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 9<sup>th</sup> DAY OF OCTOBER 2007


Leo S. Papas

UNITED STATES MAGISTRATE JUDGE

**CONTINUATION OF COMPLAINT:**

- 1.) Tracy Ann NELSON,
- 2.) Ricardo GOMEZ

**PROBABLE CAUSE STATEMENT**

I declare under the penalty of perjury that the following statement is true and correct:

Furthermore, the complainant states that **Efrain MARTINEZ-Casillas** and **Jesus GAMEZ-Aguado** are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144G.

On October 6, 2007, Border Patrol Agent L. Rubio was working the primary inspection lane at the State Route 94 Checkpoint in Jamul, California. All lights and signs indicating the checkpoint was open were clearly visible to the motoring public. At approximately 2:00 p.m., a silver sedan approached and stopped at the primary inspection lane. Inside the vehicle, Agent Rubio observed a single female driver with blond hair and a short black shirt accompanied by a male passenger wearing a dark-colored shirt with white stripes. Agent Rubio identified himself as a Border Patrol Agent and asked each occupant to state their citizenship. Both, the female driver and the male passenger stated that they were U.S. citizens. Agent Rubio observed the driver to be nervous in her responses and mannerisms. Agent Rubio asked the driver later identified as the defendant #1 **Tracy Ann NELSON**, if there was anything in the trunk of the vehicle and she stated there was nothing. Agent Rubio asked if he could look inside the trunk and the driver verbally stated that he could. At this time, the driver opened the trunk from the interior of the vehicle. Agent Rubio lifted the trunk lid and clearly observed two individuals lying down. Agent Rubio could observe one individual wearing a tan sweater and the other individual wearing a dark grey pullover with a black baseball cap. Agent Rubio notified his partner, Agent R. Espiritu that there were two individuals attempting to conceal themselves in the trunk. As Agent Rubio was calling to Agent Espiritu, defendant #1 placed the vehicle in drive and accelerated through the primary inspection lane. Agent Rubio was still holding the trunk lid open at this time and narrowly avoided injury when the driver sped away from the checkpoint.

With the driver now a considerable distance from the checkpoint, Agents Rubio and Espiritu entered into a marked Border Patrol sedan and attempted to locate and stop the silver sedan. Agents Rubio and Espiritu observed the vehicle traveling west on SR-94 but could not near the vehicle due to the high rate of speed. Agent Rubio terminated the pursuit of the vehicle and traveled east back to the checkpoint. Agent J. Constance, located at Proctor Valley Road and SR-94, observed the silver sedan, now identified as a 4-door Hyundai, turning south onto Proctor Valley Road. Agent Constance began to follow the vehicle on Proctor Valley Road but lost visual of it soon after. Agents R. Serrato and S. Vasquez were also traveling near Proctor Valley Road and assisted in searching for the vehicle. Agents Serrato and Vasquez were able to locate the silver Hyundai on the north end of Echo Valley Road as it was attempting to back out of a residential driveway. Agent Serrato parked behind the silver Hyundai, now stopped, and requested a vehicle registration check from the dispatch center. Agent Serrato learned that vehicle was registered to Tracy A. Nelson, who resides in Escondido, California. Agent Serrato observed the driver to be a blond-haired Caucasian female accompanied by a Hispanic male. Agent Serrato approached the two occupants and confirmed with Agent Rubio the description of the two individuals who initially evaded the checkpoint as matching the two individuals now stopped on Echo Valley Road.

Agents Serrato and Vasquez approached the vehicle and its occupants and identified themselves as Border Patrol Agents. Both occupants stated that they were United States citizens and did not know why they were being questioned. Defendant #1 denied that she had any additional occupants in the vehicle or inside the trunk. The passenger, later identified as defendant #2 **Ricardo GOMEZ**, also denied anyone else inside the vehicle.

**CONTINUATION OF COMPLAINT:****1.) Tracy Ann NELSON,****2.) Ricardo GOMEZ**

A search of the trunk revealed no occupants. However, there was a strong odor emanating from the trunk indicating that it had recently been occupied by people. Supervisory Patrol Agent R. LeNoir arrived at the location and began searching for the occupants that Agent Rubio previously observed in the trunk of the vehicle. Agent LeNoir was approached by the resident on Echo Valley Road who stated that she and her husband observed the male passenger exit the silver sedan, open the trunk, and let out two individuals inside. Other residents also informed Agent LeNoir that they observed two individuals travel north on Echo Valley Road to a house under construction approximately 200 yards north. Agent LeNoir went back to the silver Hyundai and found shoe prints appearing to originate from the vehicle. Agent LeNoir was able to track the shoe prints towards the direction of the house under construction.

As Agent LeNoir was tracking the shoe prints, he was approached by another resident who also reported that he had observed two individuals running north towards the same house under construction. The resident described one of the two individuals as wearing a tan sweater and the other as dark grey hooded-pullover with black sleeves. Agent LeNoir continued to track the shoe prints as they entered into the house under construction and up to the second floor. On the second floor, Agent LeNoir, along with Agent A. Uzelac, located two individuals hiding in a corner. Both individuals matched the clothing description described by the residents. Agent LeNoir identified himself as a Border Patrol Agent and questioned them as to their immigration status. Both individuals stated that they were citizens and national of Mexico illegally present in the U.S. All subjects involved with the silver Hyundai that evaded the checkpoint were arrested and transported back to the Border Patrol Checkpoint in Jamul, California. At the checkpoint, Agent Rubio positively identified the driver and passenger, respectively, of the silver Hyundai. Agent Rubio also positively identified the two individuals apprehended by Agent LeNoir as being the same he observed concealed in the trunk of the silver Hyundai.

**STATEMENT OF DEFENDANT #1: Tracy Ann NELSON:**

The defendant was read the Miranda rights and was willing to answer questions without an attorney present. The defendant stated that she is a U.S. citizen born in Escondido, California. The defendant claimed that she was trying to return to Escondido, California where she currently resides. When questioned about the events of October 6, 2007, she stated that she did not know that she had people concealed in the trunk. Immediately following this she stated that she no longer wished to make any statements without the presence of a lawyer. Agents ceased any further questioning at this time.

**STATEMENT OF DEFENDANT #2: Ricardo GOMEZ**

The defendant was read the Miranda rights and was willing to answer questions without an attorney present. The defendant stated that he is a U.S. citizen born in Escondido, California. When questioned about his prior Border Patrol arrests he stated that he was arrested two days prior under similar circumstances. He stated that his prior arrests were made while he was a passenger in his girlfriend's vehicle. When questioned about the events occurring on October 06, 2007, he stated that he had no knowledge that he was transporting illegal immigrants. He responded that he did not know that there were people concealed in the trunk. The defendant concluded his statements by stating that he did not give the driver instructions to evade the SR-94 checkpoint when two individuals were discovered to the trunk.

**CONTINUATION OF COMPLAINT:**

- 1.) Tracy Ann NELSON,
- 2.) Ricardo GOMEZ

**PROBABLE CAUSE STATEMENT**

I declare under the penalty of perjury that the following statement is true and correct:

Furthermore, the complainant states that Efrain MARTINEZ-Casillas and Jesus GAMEZ-Aguado are citizens of a country other than the United States; that said aliens have admitted that they are deportable; that their testimony is material, that it is impracticable to secure their attendance at the trial by subpoena; and they are material witnesses in relation to this criminal charge and should be held or admitted to bail pursuant to Title 18, United States Code, Section 3144G.

On October 6, 2007, Border Patrol Agent L. Rubio was working the primary inspection lane at the State Route 94 Checkpoint in Jamul, California. All lights and signs indicating the checkpoint was open were clearly visible to the motoring public. At approximately 2:00 p.m., a silver sedan approached and stopped at the primary inspection lane. Inside the vehicle, Agent Rubio observed a single female driver with blond hair and a short black shirt accompanied by a male passenger wearing a dark-colored shirt with white stripes. Agent Rubio identified himself as a Border Patrol Agent and asked each occupant to state their citizenship. Both, the female driver and the male passenger stated that they were U.S. citizens. Agent Rubio observed the driver to be nervous in her responses and mannerisms. Agent Rubio asked the driver later identified as the defendant #1 Tracy Ann NELSON, if there was anything in the trunk of the vehicle and she stated there was nothing. Agent Rubio asked if he could look inside the trunk and the driver verbally stated that he could. At this time, the driver opened the trunk from the interior of the vehicle. Agent Rubio lifted the trunk lid and clearly observed two individuals lying down. Agent Rubio could observe one individual wearing a tan sweater and the other individual wearing a dark grey pullover with a black baseball cap. Agent Rubio notified his partner, Agent R. Espiritu that there were two individuals attempting to conceal themselves in the trunk. As Agent Rubio was calling to Agent Espiritu, defendant #1 placed the vehicle in drive and accelerated through the primary inspection lane. Agent Rubio was still holding the trunk lid open at this time and narrowly avoided injury when the driver sped away from the checkpoint.

With the driver now a considerable distance from the checkpoint, Agents Rubio and Espiritu entered into a marked Border Patrol sedan and attempted to locate and stop the silver sedan. Agents Rubio and Espiritu observed the vehicle traveling west on SR-94 but could not near the vehicle due to the high rate of speed. Agent Rubio terminated the pursuit of the vehicle and traveled east back to the checkpoint. Agent J. Constance, located at Proctor Valley Road and SR-94, observed the silver sedan, now identified as a 4-door Hyundai, turning south onto Proctor Valley Road. Agent Constance began to follow the vehicle on Proctor Valley Road but lost visual of it soon after. Agents R. Serrato and S. Vasquez were also traveling near Proctor Valley Road and assisted in searching for the vehicle. Agents Serrato and Vasquez were able to locate the silver Hyundai on the north end of Echo Valley Road as it was attempting to back out of a residential driveway. Agent Serrato parked behind the silver Hyundai, now stopped, and requested a vehicle registration check from the dispatch center. Agent Serrato learned that vehicle was registered to Tracy A. Nelson, who resides in Escondido, California. Agent Serrato observed the driver to be a blond-haired Caucasian female accompanied by a Hispanic male. Agent Serrato approached the two occupants and confirmed with Agent Rubio the description of the two individuals who initially evaded the checkpoint as matching the two individuals now stopped on Echo Valley Road.

Agents Serrato and Vasquez approached the vehicle and its occupants and identified themselves as Border Patrol Agents. Both occupants stated that they were United States citizens and did not know why they were being questioned. Defendant #1 denied that she had any additional occupants in the vehicle or inside the trunk. The passenger, later identified as defendant #2 Ricardo GOMEZ, also denied anyone else inside the vehicle.



**CONTINUATION OF COMPLAINT:**

- 1.) Tracy Ann NELSON,
- 2.) Ricardo GOMEZ

A search of the trunk revealed no occupants. However, there was a strong odor emanating from the trunk indicating that it had recently been occupied by people. Supervisory Patrol Agent R. LeNoir arrived at the location and began searching for the occupants that Agent Rubio previously observed in the trunk of the vehicle. Agent LeNoir was approached by the resident on Echo Valley Road who stated that she and her husband observed the male passenger exit the silver sedan, open the trunk, and let out two individuals inside. Other residents also informed Agent LeNoir that they observed two individuals travel north on Echo Valley Road to a house under construction approximately 200 yards north. Agent LeNoir went back to the silver Hyundai and found shoe prints appearing to originate from the vehicle. Agent LeNoir was able to track the shoe prints towards the direction of the house under construction.

As Agent LeNoir was tracking the shoe prints, he was approached by another resident who also reported that he had observed two individuals running north towards the same house under construction. The resident described one of the two individuals as wearing a tan sweater and the other as dark grey hooded-pullover with black sleeves. Agent LeNoir continued to track the shoe prints as they entered into the house under construction and up to the second floor. On the second floor, Agent LeNoir, along with Agent A. Uzelac, located two individuals hiding in a corner. Both individuals matched the clothing description described by the residents. Agent LeNoir identified himself as a Border Patrol Agent and questioned them as to their immigration status. Both individuals stated that they were citizens and national of Mexico illegally present in the U.S. All subjects involved with the silver Hyundai that evaded the checkpoint were arrested and transported back to the Border Patrol Checkpoint in Jamul, California. At the checkpoint, Agent Rubio positively identified the driver and passenger, respectively, of the silver Hyundai. Agent Rubio also positively identified the two individuals apprehended by Agent LeNoir as being the same he observed concealed in the trunk of the silver Hyundai.

**STATEMENT OF DEFENDANT #1: Tracy Ann NELSON:**

The defendant was read the Miranda rights and was willing to answer questions without an attorney present. The defendant stated that she is a U.S. citizen born in Escondido, California. The defendant claimed that she was trying to return to Escondido, California where she currently resides. When questioned about the events of October 6, 2007, she stated that she did not know that she had people concealed in the trunk. Immediately following this she stated that she no longer wished to make any statements without the presence of a lawyer. Agents ceased any further questioning at this time.

**STATEMENT OF DEFENDANT #2: Ricardo GOMEZ**

The defendant was read the Miranda rights and was willing to answer questions without an attorney present. The defendant stated that he is a U.S. citizen born in Escondido, California. When questioned about his prior Border Patrol arrests he stated that he was arrested two days prior under similar circumstances. He stated that his prior arrests were made while he was a passenger in his girlfriend's vehicle. When questioned about the events occurring on October 06, 2007, he stated that he had no knowledge that he was transporting illegal immigrants. He responded that he did not know that there were people concealed in the trunk. The defendant concluded his statements by stating that he did not give the driver instructions to evade the SR-94 checkpoint when two individuals were discovered to the trunk.

**CONTINUATION OF COMPLAINT:**

- 1.) Tracy Ann NELSON,
- 2.) Ricardo GOMEZ

**STATEMENT OF MATERIAL WITNESSES:**

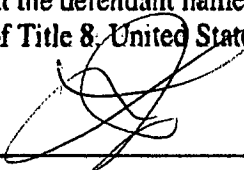
Efrian MARTINEZ-Casillas and Jesus GAMEZ-Aguado admitted in summary statements that they are citizens and national of Mexico illegally present in the United States. The material witnesses stated that they were to pay between \$2,500.00 and \$3000.00 (U.S.) to be smuggled into the United States. Material witnesses stated that they illegally entered the United States with the aid of a smuggler/foot guide. They walked until they reached a point on the road where they were told to wait for a vehicle. They stated that a car arrived soon after and transported them towards the check point on SR-94. They stated that the driver was a white female that spoke English. There was also a male passenger who instructed them to get in the trunk of the car. Both material witnesses stated that they feared for their lives when the driver accelerated at a high rate of speed from the check point.

Executed on October 8, 2007, at 9:30 a.m.



Raul Castorena  
Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of 3 pages, I find probable cause to believe that the defendant named in this probable cause statement committed the offense on October 6, 2007, in violation of Title 8, United States Code, Section 1324.



Leo S. Papas  
United States Magistrate Judge

10/8/07 9:58 PM  
Date/Time